



[BILLING CODE: 4810-033-P]

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities:

Information Collection Renewal; Request for Comment;

Identity Theft Red Flags and Address Discrepancies under

the Fair and Accurate Credit Transactions Act of 2003

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC).

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995.

An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number.

The OCC is soliciting comment concerning the renewal of its information collection titled, “Identity Theft Red Flags and Address Discrepancies under the Fair and Accurate Credit Transactions Act of 2003.”

DATES: Comments must be received by [Insert 60 days from date of publication in FEDERAL REGISTER.]

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is

subject to delay, commenters are encouraged to submit comments by e-mail, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557-0237, 400 7th Street, SW., Suite 3E-218, Mail Stop 9W-11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465-4326 or by electronic mail to prainfo@occ.treas.gov. You may personally inspect and photocopy comments at the OCC, 400 7th Street, SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649-6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649-5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649-5490 or, for persons who are deaf or hard of hearing, TTY, (202) 649-5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests and requirements that members of the public submit

reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the Federal Register concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the proposed extension of this collection of information.

Title: Identity Theft Red Flags and Address Discrepancies under the Fair and Accurate Credit Transactions Act of 2003.

OMB Control No.: 1557-0237.

Description:

Section 114 of the FACT Act amended section 615 of the Fair Credit Reporting Act (FCRA) to require the Agencies¹ to issue jointly:

- Guidelines for financial institutions and creditors regarding identity theft with respect to their account holders and customers; (in developing the guidelines, the Agencies are required to identify patterns, practices, and specific forms of activity that indicate the possible existence of identity theft; the guidelines must be updated as often as necessary and must be consistent with the policies and procedures required under section 326 of the USA PATRIOT Act, 31 U.S.C. 5318(l));

¹ Section 114 required the guidelines and regulations to be issued jointly by the Federal banking agencies (OCC, Board of Governors of the Federal Reserve System, and Federal Deposit Insurance Corporation), the National Credit Union Administration, and the Federal Trade Commission. Therefore, for purposes of this filing, “Agencies” refers to these entities. Note that Section 1088(a)(8) of the Dodd-Frank Act further amended section 615 of FCRA to also require the Securities and Exchange Commission and the Commodity Futures Trading Commission to issue Red Flags guidelines and regulations.

- Regulations that require each financial institution and each creditor to establish reasonable policies and procedures for implementing the guidelines in order to identify possible risks to account holders or customers or to the safety and soundness of the institution or creditor; and
- Regulations generally requiring credit and debit card issuers to assess the validity of change of address requests under certain circumstances.

Section 315 of the FACT Act also amended section 605 of the FCRA to require the Agencies to issue regulations providing guidance regarding what reasonable policies and procedures a user of consumer reports must have in place and employ when a user receives a notice of address discrepancy from a consumer reporting agency (CRA).² These regulations are required to describe reasonable policies and procedures for users of consumer reports to:

- Enable a user to form a reasonable belief that it knows the identity of the person for whom it has obtained a consumer report; and
- Reconcile the address of the consumer with the CRA, if the user establishes a continuing relationship with the consumer and regularly and, in the ordinary course of business, furnishes information to the CRA.

As required by section 114 of the FACT Act, appendix J to 12 CFR part 41 contains guidelines for financial institutions and creditors to use in identifying patterns, practices, and specific forms of activity that may indicate the existence of identity theft.

² These regulations have been transferred to the CFPB.

In addition, 12 CFR 41.90 requires each financial institution or creditor that is a national bank, Federal savings association, Federal branch or agency of a foreign bank, and any of their operating subsidiaries that are not functionally regulated, to establish an Identity Theft Prevention Program (Program) designed to detect, prevent, and mitigate identity theft in connection with accounts. Pursuant to § 41.91, credit card and debit card issuers must implement reasonable policies and procedures to assess the validity of a request for a change of address under certain circumstances.

Section 41.90 requires each OCC-regulated financial institution or creditor that offers or maintains one or more covered accounts to develop and implement a Program. In developing the Program, financial institutions and creditors are required to consider the guidelines in appendix J and include the suggested provisions, as appropriate. The initial Program must be approved by the institution's board of directors or by an appropriate committee thereof. The board, an appropriate committee thereof, or a designated employee at the level of senior management must be involved in the oversight of the Program. In addition, staff members must be trained to carry out the Program. Pursuant to § 41.91, each credit and debit card issuer is required to establish and implement policies and procedures to assess the validity of a change of address request if it is followed by a request for an additional or replacement card. Before issuing the additional or replacement card, the card issuer must notify the cardholder of the request and provide the cardholder a reasonable means to report incorrect address changes or use another means to assess the validity of the change of address.

As required by section 315 of the FACT Act, § 1022.82 requires users of consumer reports to have in place reasonable policies and procedures that must be

followed when a user receives a notice of address discrepancy from a credit reporting agency (CRA).

Section 1022.82 requires each user of consumer reports to develop and implement reasonable policies and procedures designed to enable the user to form a reasonable belief that a consumer report relates to the consumer about whom it requested the report when it receives a notice of address discrepancy from a CRA. A user of consumer reports also must develop and implement reasonable policies and procedures for furnishing a customer address that the user has reasonably confirmed to be accurate to the CRA from which it receives a notice of address discrepancy when the user can: (1) form a reasonable belief that the consumer report relates to the consumer about whom the user has requested the report; (2) establish a continuing relationship with the consumer; and (3) establish that it regularly and in the ordinary course of business furnishes information to the CRA from which it received the notice of address discrepancy.

Type of Review: Regular.

Affected Public: Individuals; Businesses or other for-profit.

Estimated Number of Respondents: 1,441.

Estimated Total Annual Burden: 161,034 hours.

Comments submitted in response to this notice will be summarized, included in the request for OMB approval, and become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of

information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

[THIS SIGNATURE PAGE RELATED TO THE NOTICE TITLED “AGENCY
INFORMATION COLLECTION ACTIVITIES: INFORMATION COLLECTION
RENEWAL; REQUEST FOR COMMENT”]

Dated: November 16, 2015

Mary H. Gottlieb
Regulatory Specialist
Legislative and Regulatory Activities Division

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